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SUPREME COURT, U.S.

No. 905

# In the Supreme Court of the United States

OCTOBER TERM, 1967

SPARICO MANNO, PETITIONER

*v.*

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

ERWIN N. GRISWOLD,
Solicitor General,
Department of Justice,
Washington, D.C. 20530

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## MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

The judgment of the court of appeals was entered on October 2, 1967, and a petition for rehearing was denied on November 7, 1967. Mr. Justice Marshall extended the time for filing a petition for a writ of certiorari to December 11, 1967. The petition was not filed, however, until December 12, 1967 and is, therefore, out of time under Rule 22(2) of the Rules of this Court. There is, in any event, no occasion to review the determination of the court of appeals to remand the cause for a new trial after its reversal of petitioner's conviction on two counts of a narcotics indictment alleging violations of 21 U.S.C. 174 and 26 U.S.C.



288-267—68

4705(a). The Department of Justice has concluded that it will not retry the case and has authorized the United States Attorney to dismiss the indictment.

It is respectfully submitted that the petition for a writ of certiorari should be denied.

ERWIN N. GRISWOLD,
*Solicitor General.*

JANUARY 1968.

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